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Public Development: Using Land as a Capital Resource

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Public Development: Using Land as a Capital Resource

Lynne B. Sagalyn © 1992

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About the Author

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In late summer 1986, only seven years after a brush with bankruptcy, the Battery Park City Authority was able to issue \$184.9 million in special obligation bonds. This turnaround was made possible through a long-term lease agreement with a private real estate firm for the development of the World Financial Center, a 6 million-square foot office building complex on the authority's 92-acre landfill site in lower Manhattan. On the strength of the "excess revenues" from this source,¹ \$210 million of Housing New York City Bonds were issued a year later and another \$222.7 million of Budget Relief Bonds (for New York City) were issued three years after that. In anticipation of additional development on sites slated for residential and commercial uses, still other commitments were made: \$600 million more for the city's \$4.2 billion Ten-Year Program to build 252,000 units of low- and moderate-income housing, and \$50 million for general city purposes, both in addition to \$68.5 million for the project's remaining infrastructure and civic improvements. With total revenues projected at more than \$6.7 billion by the year 2020 (Battery Park City Authority 1990, C1- g), Battery Park City's unqualified success defied both its own past and a widespread assumption that the public has no business in business, especially real estate development. In short, it accomplished what seemed impossible: the creation of land value and the subsequent capture of the benefits for public gain.

The authority achieved these benefits by virtue of its role as a public developer. Public development in this case meant defining a vision and investing in the planning, infrastructure, open space, and amenities necessary to induce private investment. This financial commitment initially put the public treasury at risk of \$200 million for close to a decade before the private office buildings and residences expected to repay that indebtedness materialized. The risk proved to be real. Bedeviled by a misconceived master plan, depressed real estate market, default of the state's Urban Development Corporation, and a political environment in which the city was sliding into fiscal crisis, BCP's development followed no smooth progression. Rather, it proceeded through a series of false starts during the 1970s until a new legal framework, master plan, financial workout scheme and takeover by the state—fortunately coincident with a revived real estate market—yielded the building cranes that catapulted the project into blinding reality in the mid-1980s.

Public development burgeoned in the 1980s in response to a particular set of conditions in real estate markets and fiscal pressures facing local governments, and a shift in values favor-

ing entrepreneurial behavior. The combination of forces gave public agencies an economic rationale for taking aggressive positions, as developers, to capture the benefits of rising land values. The cast of public participants was wide-ranging: big cities, such as Baltimore, Boston, Los Angeles, New York, San Francisco, and Washington, D.C.; redevelopment authorities; transit operators; county governments; port authorities; school districts; specially chartered public corporations; even the U.S. General Services Administration, the U.S. Navy, and the U.S. Postal Service.

The aggressiveness of the public's behavior was a product of the times. Acting upon their interests as landowners, governments moved opportunistically with the market pendulum—from giving financial assistance when real estate conditions were weak to capturing profits when they turned strong. The economic opportunity presented by commercial development on public lands proved irresistible, coming as it did on the heels of stressful fiscal times when many big-city budgets were severely pressed by cutbacks in federal aid and a national recession.²

Through complex and often ingenious business transactions with private developers, entrepreneurial officials defined and traded upon the value of public lands in pursuit of long-term revenue streams, public works, housing commitments, and jobs. The multifaceted nature of these goals drove the form of public intervention. At the same time, it set up political cross-pressures which shaped the public's business deals with private developers as officials sought to accommodate the competing demands of many interests. These cross-pressures arose from the particular political risk inherent in the public-development agenda: the tension between the drive for financial returns and the desire for social goods. This tension is what defines the special, and often controversial, character of the public's proprietary interests in land and what influences the institutional mechanisms public officials use to exploit the value of those interests.

Aggressive public development was as unconventional as it was risky. When cities regulate real estate development to safeguard public interests, tax private property to provide public services, or grant subsidies to promote economic growth and keep businesses from moving out of town, the lines between public and private spheres appear clear (if not precise). The risks are political more than economic. When, however, public agents aggressively develop publicly owned land, their role is entrepreneurial and the risks are financial. Achieving certain types of goals through calculated risk taking was a posture that cities with strong real estate markets seemed well positioned to take in the 1980s. This essay explains what gave rise to the public's entrepreneurial behavior, and how the nature of its goals drove this form of government intervention in land markets.

The Decade of Development

The 1980s played host to the largest building boom in United States commercial real estate history, unprecedented in scope and approached in relative volume only by the halcyon 1920s. Between 1980 and 1989, the real dollar volume of total nonresidential construction put in place averaged \$88.1 billion per year; in the primary individual product markets, this meant record-breaking additions of square footage, which nearly doubled the inventory of

competitive office space, created 14,497 new shopping centers, and, on average, netted 304,000 new hotel rooms.³

As building activity accelerated sharply in the mid-1980s, the economic forces that gave rise to this massive investment in new structures became widely known and well documented. On the demand side, the fundamentals were compelling—unprecedented growth in service-sector employment, intense competition for the consumer's growing retail dollar, the coming-of-age of homeownership among the baby-boom generation, and continued dispersion of population and businesses away from urban centers at the same time cities sought to retain some vestige of their former economic strength with a massive rebuilding of their commercial-core environments.⁴ On the supply side, deregulation of financial institutions opened a floodgate of plentiful financing (too plentiful, in retrospect) and investor demand was strong, spurred on by generous tax benefits (courtesy of the 1981 Economic Recovery Tax Act) as well as new dollars from overseas. Expectations of high inflation provided yet another rationale for real estate investment by an important set of new players, the nation's public and private pension funds (Downs 1991).

By the early 1980s, real estate values had risen sharply. Appreciation, as reported by a nationally based index of high-grade institutionally owned property, had outpaced inflation for the 1978–82 period, averaging 7.4 percent compounded annually. Rates for office buildings, in particular, were soaring, at an annual rate of 10.7 percent, and the experience of skyrocketing rents in some big cities established record peaks for the asset's earning power. Ever optimistic, the industry expected continual expansion of growth throughout the decade (Frank Russell Co. and NCREIF 1987, Real Estate Research Corp. annual publication).

Growth in property values, adjusted for the pace of inflation, was a fact public officials did not fail to notice. With municipal revenues tied so intimately to real estate through property tax collections, still the largest single source of revenue for local governments in the early 1980s,⁵ keen attention to the trend was a given. Less widely evident were potential property returns of a different sort. These were gains that would not flow automatically from collection systems already in place, but rather would come only from new policy decisions linked to a style of affirmative management. That opportunity to capture financial value from their ownership interests in "surplus" or "dormant" or "underutilized" land and buildings was something only the more entrepreneurial public agents grasped immediately.

Public Drives for Profit

Changing national demographics and deferred child bearing among the baby-boom generation had emptied schools, leaving those districts with excess capacity and boarded-up buildings. The bulldozer strategy of the 1950s' and 1960s' urban renewal effort had left behind hundreds of acres, cleared. And the dramatic decline in manufacturing activity throughout the post-World War II period had made obsolete vast stretches of formerly busy waterfront piers and industrial yards now eerily vacant and ripe for redevelopment, if new commercial uses could be found and private investment attracted to the sites. The lots and buildings owned by general municipal offices, transit agencies, and a range of specialized government entities filled out the inventory of publicly owned real estate. For many municipalities this inventory amounted to an impressive asset base. Without initiating a special, systematic study of its scope, however, any attempt to pin a value tag on that inventory would have

been an elusive task at best because few officials considered knowledge of its dimensions important—until the times woke them up to the opportunity cost of its unrealized market value.⁶

In the mid-1980s, announcements of a few notable bid packages offered to the development community appeared in the media. These offerings were the product of earlier, prescient policy decisions and planning studies preceding disposition to the public.⁷ Commentary on the trend appeared soon after in professional journals, along with advice on how to initiate and organize public-private development on publicly owned land.⁸ Handbooks written by industry groups also were published by this time.⁹ And by the late 1980s, development plans of transit agencies, port authorities, county governments, and municipalities, as well as quasi-private federal agencies such as the U.S. Postal Service were reported with growing regularity in national-circulation newspapers.¹⁰ By then real estate professionals were calling upon governments to think of their property holdings in terms of “asset management,” and a few states and local governments in California, Colorado, Massachusetts, and the Washington, D.C. metropolitan area already had such systems in place or in planning.¹¹

Whether the moving force came from a drive for management efficiency, reflected a pragmatic response to an immediate, singular opportunity for financial gain, or involved a long-term speculative play (some of each prevailed), by the end of the decade public real estate development had come of age. Consistency of motive was not a necessary condition for the economic logic to take root: Publicly owned real estate had become too valuable, from a strategic perspective, for local governments to sit on the sidelines of commercial development activity, and the times might never be better for pushing forward aggressively. Remarked one academic expert,

We can't even think of what's happening in the public sector any more as public administration. . . . The issues of service delivery that once dominated local government—those are still issues. But there's been a shift in the thinking of local governments. Now they're concerned with job creation, economic growth, quality of life—things very tied in to the development process.¹²

To meet those ends, the shift in thinking about publicly owned real estate was accompanied by attitudes and actions geared to make money, save money, and protect government's proprietary interests in land. Unlike land use regulation and infrastructure investment, private commercial development on publicly owned land held out the promise of long-term revenues.

The economic rationale for public development was not confined to big cities where high-density, high-value land markets stimulated visions of profit for public treasuries. Some suburban and county governments were early entrants into the business of public land development. And as so often is the case with development and land use trends, California led the way. As early as 1976, the city of Fairfield participated in a private regional mall project netting in excess of \$1 million above its land acquisition costs as well as a share of the mall's annual net cash flow, future refinancing, and sale proceeds.¹³ In the early 1980s, Los Angeles County pioneered the concept of public asset management with its plan to capture long-term revenues from leasing land for private development. Among its earliest projects was the redevelopment of a 26-acre former county hospital into a business park, expected to bring the county \$1.3 billion in revenue over the life of the lease (Fisher 1987, 35).

On the East Coast, the Fairfax (Virginia) County Board of Supervisors in 1987 approved a controversial deal with a private development partnership designed to deliver—at no cash outlay to the taxpayers—a new \$83.4-million government center on 100 acres of existing county land. Instead of floating bonds for the project, the county swapped 116 acres of its adjoining land (which would be zoned for commercial and residential development), in exchange for tenancy (and ultimately building ownership after 75 years), \$24.6 million in cash, and \$16.6 million in other forms of compensation. The private developers planned to build a \$400-million mixed-use project. The controversy raged over the appropriateness of government action and the “value” received by the county for its land. “The basic question,” responded Board Chairman John F. Herrity, “is, Does it make sense to take a \$4.1 million investment and turn it into an \$83 million government center?”¹⁴

Actions to Capture Value

As a residual of their primary *raison d’être*, public agencies control some of the most desirable development parcels. This is especially the case in densely built eastern cities where rapid transit systems have been recently constructed or extended. The Washington Metropolitan Area Transit Authority (WMATA) is illustrative. Formally established in 1966, it was not until the late 1970s that sufficient planning and implementation had taken place to create the potential for commercial development opportunities at its downtown stations; suburban opportunities arose later, in the early 1980s. By 1985, ten years after the first trains ran the new tracks, the investment spinoff from private development adjacent to the 60.5 miles and 60 stations finished to date totaled an estimated \$3 billion, and planners were projecting a figure of \$5 billion when the system’s 103 miles and 87 stations were complete. Five hundred commercial projects had been started around Metrorail stations in the five years since 1980, with the largest initiated through WMATA’s joint development program.¹⁵ Metrorail-fostered development sought to achieve many goals: generation of additional sources of revenue; increased rail ridership; and enhanced rider convenience, public amenity, and architectural distinction through direct physical connections between private building entrances and rail stations.¹⁶

Cost recovery of the public’s enormous capital investment for new and expanding fixed-rail facilities was a key objective of transit authorities’ real estate activities.¹⁷ Atlanta, Baltimore, Boston, Miami, Philadelphia, and Washington, D.C., the cities with active joint development programs, were also those with subway systems under construction or expansion at the end of the 1970s. The potential for future joint development also existed in cities where the planning for new systems was underway, in Honolulu, for instance. While financial expectations of what the joint development strategy could deliver would not put a transit agency’s land acquisition needs on a self-sustaining basis, the revenues would go a significant distance toward recouping costs and making efficient use of those “excess” lands identified as unnecessary for the operation of the system. For example, as early as 1976, the recovery target for WMATA’s real estate program was \$65 million, or about one-fourth of the \$240 million in projected costs for acquiring some form of proprietary interest in the more than 1,900 parcels needed for a system then expected to cost approximately \$6.6 billion.¹⁸

Joint development was only one of several value-capture mechanisms used by transit agencies,¹⁹ but by the mid-1980s, real estate had become the one they turned to with increasing

frequency to augment operating income and offset inadequacies of their other revenue sources. (The move was pushed along by budget cuts by the Reagan administration, which was intent upon reducing federal assistance to local transit operations.) The first step for many agencies was to set up a separate department and hire real estate talent to develop and implement an aggressive strategy for extracting value from existing real estate assets.²⁰ A passive position would not yield returns; if left unmanaged, the potential revenues from real estate assets, according to one federal transportation official, "might never occur, or at best a transit operator accepts whatever revenue a developer might offer" (Verchinski 1986).

In the 1980s, "prime" development sites in several big cities were a dwindling commodity, and those remaining were also often under the control of public agencies. During the 1950s, as part of what can now be called the first round of urban renewal, cities built many downtown parking garages, unadorned structures of convenience and necessity for a white-collar workforce commuting in from the suburbs. Whether those garages would prove to be financially viable operations for cities was not germane at the time, in no small part because the federal government under the urban renewal program picked up the lion's share of costs for land acquisition, but also because the garages were part of the subsidized infrastructure required to draw new private investment into central cities. By the mid-1980s, these low-density structures represented an opportunity cost when viewed through the green-eyeshade perspective of a budget director in search of new revenues. Further, the strong market for office buildings which had emerged in the intervening decades no longer needed subsidization.

The city of Boston, for one, had several of these chunky cement dinosaurs—atop land in the heart of a dense downtown where property values, adjusted for inflation, had escalated dramatically, at rates of nearly 15 percent annually between 1977 and 1982, following the opening of Faneuil Hall Marketplace.²¹ In 1981, the beginning of a record-breaking building boom in the city, office development in downtown and Back Bay soared, with over 2.5 million square feet of space under construction or renovation, nearly a six-fold increase over the year before (Avault and Johnson 1987). The garages were producing revenue for city coffers, but in the intensely heated climate of the times, not nearly what they could produce if sold as development sites, especially in a city short on such supply and when a public blessing might ease the path through the city's tough and trying approvals process.

Pressed by severe budgetary problems, in 1982, the city put several of these garages up for sale because operations were "inefficient," repairs were "costly," and revenues were "insufficient."²² The field of competitors from which it selected developers for the sites numbered twelve, and the total intake ultimately amounted to a windfall of \$84.7 million. This was more than two-and-a-half times the \$32.5 million initially expected, as estimated by the Boston Municipal Research Bureau, the independent fiscal watchdog of the city.²³ Many of these deals were not finalized until a few years later when the city's budget picture had improved and the mayoral administration of Kevin White had been replaced by that of Raymond Flynn. Still supportive of development, the Flynn administration wanted additional neighborhood-based returns from the parcels in the form of housing contributions and linked commercial development of parcels in minority neighborhoods.²⁴

The opportunity for large-scale public development in the 1980s was rooted in the public's proprietary control over broad functional areas commanding expansive land holdings:

urban renewal districts, waterfronts, transit and highway zones, airports, as well as surplus military bases and city-owned sites managed by specially chartered project authorities (see exhibit 1 for a representative list of projects). The Port Authority of New York and New Jersey, for example, has had a long history of direct involvement in development. Similarly, the New York Urban Development Corporation, created in 1968, initially ushered in the era of public entrepreneurial ventures with its statewide development of housing, new towns, and urban projects.²⁵ With these public authorities, entrepreneurial models were in place, yet it would take the combination of forces that emerged in the 1980s for public development to become widespread. Left without federal support for urban renewal, but with hindsight knowledge that they had missed the boat by selling land and giving private developers all of the economic "upside," many cities were determined to change course.

In both city and suburb, the 1980s' economic rationale for aggressive public action to develop public lands for commercial use was irresistible because it offered a timely means of tapping property to finance targeted capital improvements or boost capacity of the operating budget. Most important, this could be accomplished without dipping into taxpayers' pocketbooks or putting the issue up for a bond referendum. The political benefits of such a strategy were clear. Moreover, in big cities the political logic of public development in the 1980s carried extra force because it built upon cities' first efforts in the 1970s to use public-private deal making as a strategy for overcoming the problems of implementation (both economic and political) which had stymied federal urban renewal efforts.²⁶ If profits from the rising value of publicly owned land could be turned into the means for self-financing public-purpose projects, big cities with strong real estate markets such as New York, Boston, Washington, D.C., Los Angeles, and San Francisco, would have a powerful tool for furthering their ambitions for reshaping large sections of the urban landscape.

Abetting Fiscal Rationales

The fiscal tenor of the times added force to the economic logic of using land as a capital resource. In the late 1970s, a rash of tax-cutting referenda, spearheaded by California's Proposition 13 and Massachusetts' Proposition 2 1/2, imposed new revenue constraints on local governments at the same time wholesale cutbacks in federal categorical aid programs for urban areas propelled them to search for substitute sources of funds. The alternatives were few, as considered by urban analysts and politicians alike, and cities' ability to initiate new, independent action was circumscribed by their legal status as creatures of the state. "Until the commonwealth allows Boston to broaden its tax base and gain economic freedom, we can only encourage more development to bring new taxes and jobs into the city," was the defense offered by a former director of the city's aggressive redevelopment authority.²⁷

Weighed down by a large proportion of tax-exempt property as well as court-imposed tax repayments, Proposition 2 1/2, and a lack of statutory authority, Boston was more encumbered legally than many big cities.²⁸ Yet the political forces that focused the fiscal search beam upon real estate development were far from unique. They were three: (1) pressure from business to create a favorable climate for private investment, (2) self-protective desires from city hall for public investment in capital facilities to help fight off continual middle-class flight to the suburbs, and (3) a clarion warning from voters to steer clear of new taxes and

bond issues. To several veteran observers, taxpayers' resistance to new expenditures was driven as much by a deep skepticism of competence in government as it was by a philosophical shift toward a smaller role for government. But from whichever vantage point, if public officials were to respond to the needs of their constituencies with new initiatives, they would have to do so within tight budgetary confines and without seriously compromising the delivery of municipal services. In other words, they needed to manipulate off-budget sources of revenue for their capital improvements and economic development projects.²⁹

Irony lurked in the shadows here. Taxpayers' efforts to trim the size and span of government and make it more accountable for the use of its revenues unintentionally led to an opposite set of consequences: entrepreneurial agencies that were more activist, used off-budget techniques and entangled the government directly in private business.³⁰

Political Flexibility

The revenues potentially forthcoming from the public's proprietary interests in real estate would make but a small contribution toward funding the annual, ongoing needs of a big-city operating budget. Rather, the importance of such holdings came from their political character. As a source of discretionary, nontax revenue, real estate revenues afforded public officials latitude in funding their project-specific economic development and city planning agendas. This was the area most hard hit by the Reagan administration's federal aid cuts.

Unlike aid for highways and mass transit, development funding for the more discretionary programs—Community Development Block Grants (CDBG), Urban Development Action Grants (UDAG), the Economic Development Administration (EDA), employment and training programs (ETP), and general revenue sharing—had been slashed. By one scholar's calculations, between fiscal years 1980 and 1987, the declines, in constant-dollars, ranged from 32 percent (CDBG) to 52 percent (UDAG) to 72 percent (ETP). For UDAG and EDA, the main sources of federal support for many local projects, the biggest cuts came in 1981 and 1982, after which time funding levels were essentially frozen in nominal terms for several years before appropriations dwindled, then disappeared completely from the budget by the late 1980s.³¹ Though Washington had not eliminated all support for economic development all at once (CDBG funds remained) formerly "free" aid became tied to administrative guidelines that put local money at stake and to grant programs that made localities more accountable for how the funds were spent. The message to local governments was unequivocal: Become more self-reliant by coming up with your own funds.³²

At the local level, funding for economic development projects had long been an off-budget business, regardless of the specific fiscal pressures facing city officials. Even for those cities not encumbered by imposing fiscal deficits, the well-honed political wisdom of using foregone revenues (tax expenditures), below-market interest rates and back-up guarantees on public loans, and other forms of noncash subsidy had supplied cities with a ready inventory of off-budget tools with which to encourage commercial and industrial development and neighborhood commercial revitalization and assist local businesses.³³

As a result of these practices, a financial statement of a city's total spending for economic development is hard to come by, and systematically tracking its scope is a difficult task because the sources of off-budget decision making are many and fragmented.³⁴ To make the

point, however, data on New York City's direct expenditures for economic development for one year are instructive. For fiscal year 1983, expenditures across the city's six major agencies responsible for economic development totalled \$256.2 million; \$188.4 million, or 74 percent, represented "expenditures" through tax exemptions and loans for the purchase of city-owned property. Other forms of spending—\$30.7 million for personal and other services and \$37.1 million for capital-budget items—were small in comparison.³⁵ When matched against the city's overall operating budget of \$15.5 billion or its capital budget of \$1.8 billion, total direct spending for economic development was minuscule. However, the discretion afforded city officials by the off-budget character of the funding magnified its importance in the policy arena.³⁶

Self-Sufficient Financing

If the politics of the times imposed a clear financial imperative that publicly sponsored commercial-development projects be self-sufficient, one way to achieve this was by using land as a capital resource. Cities might look to state government for some assistance, but there, too, officials were coping with added fiscal responsibilities brought about by the Reagan administration's shift in domestic priorities and policy. Long-standing incentive programs, such as property tax abatements, though important, afforded little financial maneuverability to public agents who were desirous of creating large-scale impacts through their public development activities. (Indeed, though statutory authority was widespread, tax abatements were used with much less frequency in big cities other than New York.)³⁷

Issuance of tax-exempt revenue bonds was the key tool relied upon by cities for their economic development projects, in general. Yet federal legislative constraints limited the use of those bonds for large-scale public-private development projects, especially after the 1986 Tax Reform Act imposed additional restrictions (Petersen and Eitelbert 1986). Only when married with some form of enhanced statutory authority from the state, such as tax-increment financing, which allows public authorities to siphon off the additional property tax revenues generated by redevelopment as a means of repaying bonded debt, would tax-exempt financing provide the off-budget solution for project self-financing.

Fiscal flexibility—to be used in the construction, finance, or operation of public open spaces, transit improvements, or cultural facilities—could, however, be found in the cash revenues streams which were the product of the public's proprietary interests in land. The funds could come in the form of one-time proceeds from a sale disposition, long-term annual revenues from a land lease, performance-based paybacks from a profit-sharing arrangement, and transaction fees linked to a refinancing or profitable sale of a project (see exhibit 2).

Alternatively, the value of the public's proprietary interests might be realized through barter or in-kind contributions in the form of public works provided or financed by private developers. Additionally, the cash value might be converted, within the structure of a public-private deal, into other "currencies" and used to subsidize nonmarket uses, such as housing, or public priorities, such as targeted-resident hiring. As sole-source financing, the value inherent in public land still might not fully satisfy the needs of public investment for a major project, but it was a significant and malleable means toward project self-sufficiency. Once the concept of using land as a capital resource had been accepted as a policy option, the institutional framework—deal making through land leases between public authorities

and private development firms—imposed few strictures on the ingenuity of action which could be used to realize value from the public's land interests.

Using land as a capital resource was part of a broader trend among the nation's local jurisdictions that sought to tap private real estate development for the funding of "hard" infrastructure works and other less-defined public needs. Suburban and county governments as well as school districts were busy increasing existing fees and imposing additional regulatory exactions upon new developments. State governments likewise taxed capital gains of commercial property and transfers of real estate.³⁸

These tactics were pragmatic and no doubt, in some places, philosophical as well; prevailing strong-market conditions, buoyed by expectations of continued growth, strongly suggested that real estate could be pumped to produce public gains. The financial burden associated with both regulatory and tax actions did just that, in conventional ways. From a public finance perspective, the regulatory exactions also reflected the concurrent movement toward privatization of funding—if not provision—of public services.³⁹ The question I want to explore is to what extent the use of development contracts with private parties to develop public lands was an effort to escape the public costs of providing infrastructure, low-income housing, or other conventional public services or a means of converting the value of that land into a source of funding for those public costs? Was this a type of privatism that substituted private gains for public goals or an affirmative action to achieve public goals by private means? To address those issues, we must first understand why regulation appeared to be the less-than-efficient strategy of public intervention for the set of objectives pursued by big cities.

The Limits of Regulation

New York's Battery Park City is the premier example of public development.⁴⁰ While that project's sheer scale and density ultimately produced a financial payoff few cities could hope to match, the model's strategy—its planning, financial, and political logic—was unfolding in other big cities across the country as public officials initiated development of large-scale projects on public lands. Central to this trend was the desire to directly control the development of prime, strategic sites and use it to shape or redirect the broader canvas of city growth. To do so, cities needed (1) to act ahead of market demand, which they did by absorbing the front-end risks of market-shaping development; (2) an institutional mechanism, public-private dealmaking, which provided for expanded governmental influence over the development process; and (3) a means of fiscal independence from the annual budget appropriations process to empower long-term development decision making, which in practical terms meant a politically viable plan for self-sufficient project financing and revenue generation from privately owned commercial uses.

As an means of policy intervention, deal making was significantly different in form and intent from regulation. First, the terms and conditions of development were custom tailored to individual projects instead of being set uniformly through as-of-right zoning ordinances or programmatic incentives. Second, the objectives cities hoped to achieve became tied to the business terms of the deals they made with private developers, rather than any regulatory rationales, legal principles, or budget priorities. Third, under the terms of most public-

private agreements, what the city sold (and the developer bought) was not simply land per se, but rather a development opportunity—rights to build hedged with complex obligations to perform and responsibilities to produce, including a package of public benefits. Fourth, unlike the carrots embedded in incentive zoning ordinances, public-private deals were based on mutual business interests designed to keep each side performing throughout the development process; they defined the opportunistic and aggressive character of public development.

Because it was often contrary to market trends, the nature of the public goal drove the form of intervention. The desire to create new, revitalized environments, to impose a different scale of city development, or to pioneer an innovative planning concept are some of the explanations for why large-scale development has held a constant allure for city officials. Reinforcing these rationales is the old-fashioned ribbon-cutting mentality of politicians who want to leave a “legacy” in bricks and mortar and the desire of citizens to judge the health of their city by the pace at which new projects are built.

The endurance of large-scale development is notable. It has withstood the well-accepted normative value of small-scale incremental change put forth forcefully in 1961 by Jane Jacobs in her influential and now classic book, *The Death and Life of Great American Cities*. It has also withstood the well-known political liabilities associated with large-scale renewal of urban neighborhoods. That lesson of the federal urban renewal program did not go unnoticed, but neither did it seriously undermine city officials’ penchant for action that promised large, visible impacts—so long as the action did not involve wholesale clearance and relocation of residents.

The sites of many of the nation’s biggest public projects, such as Battery Park City and Yerba Buena Gardens, were, by the beginning of the 1980s, cleared slates ready for development. Yet because the public objectives of these large-scale projects depended upon (1) extensive public and private capital investment, (2) timed development phasing, and (3) coordinated implementation, regulatory interventions were a largely ineffective means of accommodating these needs. Central to all these projects would be the task of creating a critical mass of private investment—in a timely manner. To be effective, that investment would have to be large enough to turn around the real or perceived negative externalities of an area’s current character.

Cities’ goals for cultural districts illustrate the limits of relying upon regulatory strategies to achieve large-scale development objectives. In the late 1970s, the arts emerged as a dominant component of growth strategies for the revival of central cities, not simply as an arts-for-arts-sake rationale. Anxious for redevelopment, some cities saw in cultural districts the potential for increased employment, tax revenues, retail sales, and tourism.⁴¹ Commercialism in the service of economic development was central to the planning and implementation of cultural district strategies by the public sector. So, too, was the perception within the real estate industry that the financial burden of such developments was too great for the private sector to bear alone:

Because the scope of public benefits desired has grown so large, many steps are required beyond the traditional public sector techniques. Zoning incentives, infrastructure improvements, tax abatements, and write-downs thus have played key roles in most mixed-use developments. (Urban Land Institute 1984, cited in Berry 1988)

Regulating development, even in a hot real estate market, would not be enough to produce the cultural facilities many cities wanted. New York and Boston sought to channel the profits of market-driven commercial development toward the creation of cultural facilities through density bonus tradeoffs built into incentive zoning regulations. The results fell short of expectations. In New York, where special theater district zoning was established in 1969, the regulations succeeded in delivering several new theaters, but they could not deliver nearby where they were needed the wide range of services and activities—small low-rent spaces for teaching and rehearsals, specialized retail shops, and ancillary services—that contributed to the cultural experience. In Boston, the story was different. There incentive zoning had no impact because the timing of its implementation missed the market, following as it did the slow-down of the city's spectacular building boom.⁴²

Another key planning objective common to many big-city initiatives in the 1980s focused on steering the growth of office development. Cities aimed to expand the spinoff benefits and disperse the environmental costs of downtown office towers by shifting the location of new construction—south of Market Street in San Francisco, south of Broadway in San Diego, onto Pennsylvania Avenue in Washington, D.C., over to Midtown West in Manhattan, to areas adjacent to the Financial District in Boston. The perception shared by public officials and private developers alike was that market forces alone, even pushed and prodded by zoning incentives, would be insufficient to overcome private investment risks in these areas. The limiting feature of regulation, in this instance, was its passive character: the initiative for implementation remained dependent upon developers who were often slow to establish new areas of desirability even as prime sites ran out.⁴³

As a change agent, land use regulations, in the words of one noted advocate, “have little muscle in today’s world to assure that whatever priorities are set will in fact find expression in actual land use and development beyond precluding non-priority uses or development.”⁴⁴ Others, critics, argued that zoning incentives work in getting developers to respond to the stimulus (sometimes too much so), but that the calibration of benefit to the city compared to cost to the developer is difficult, if not impossible, under uniform regulations (Kayden 1978). Moreover, experience with individually negotiated agreements with private developers subsequently proved, through audit reports of selected projects in New York City, to be inefficient as well.⁴⁵ In terms of its ability to achieve broad and ambitious planning goals, the record for incentive zoning stood mightily tarnished.

The Demands of Large-Scale Ambitions

The desire to shape urban development with large-scale actions influenced early efforts of regional planning during the 1920s, the planning of suburban greenbelts during the 1930s, and the creation of new towns during the 1960s and 70s. What distinguished its appearance in the 1980s was the landowning interests of public entities and that influence on the form of public intervention deemed necessary and appropriate to achieve these objectives. Putting their financial claims to land value at risk in order to stimulate private real estate projects and retaining continuous control over the development process were both rationales for protecting the public interest and a means of financing public objectives.

The special demands of large-scale sites, usually zoned for obsolete uses or not zoned for private uses at all, inevitably meant that a special regulatory system needed to be created with flexibilities not afforded developers of small sites. In the case of public sites owned by state authorities, the land might not even be subject to local zoning unless a special understanding had been struck with local governments. The World Trade Center in New York is such an example, as is Copley Place in Boston. In either instance, the move to deal making and administrative flexibility in land use implementation did not preemptively erode the city's regulatory position. Moreover, it was easy to slip over the invisible line into bargaining zoning concessions for other benefits.⁴⁶

Scale also imposed a requirement for major public works—new infrastructure, transit facilities, environmental mitigations, and open-space amenities—early in the development process. Without that public investment, the transformation of raw acreage into an attractive location for long-term private investment would inevitably come to a standstill. In the past, plans for large areas of cities, however rational in form and appealing in urban design, typically floundered because the problem of scale presented, as one well-known urban design critic remarked, “awkward practical problems,” typically of a financial nature. If privately financed, the costs of carrying nonproducing space in advance of its needs imposed heavy demands, while the real estate market could not absorb the scale of building very big all at once. If publicly financed, “the political problems of government projects increase geometrically with size” (Barnett 1986, 170–71).

In an era when most big cities operated with dwindling sources of federal aid and constant fiscal pressures to maintain existing levels of municipal services, public spending for large-scale development projects demanded a form of government intervention that could capture enough of the appreciation in land values to finance the needed up-front public investment. Regulatory policies requiring subway improvements, public amenities, or commitments for housing construction could generate public benefits—when developers initiated projects and, most successfully, when real estate markets were strong. Yet the sums needed to redirect the pattern of development in the ways envisioned by cities generally exceeded the financial capability of any single commercial project, even a large one. Further, when redistributive policies worked their way into regulations, as in the case of cost sharing for socially desirable uses, the outcome was unpredictable or uncertain because the policies themselves became subject to the limits of regulation.⁴⁷

Yerba Buena Gardens: Affirmative Control of Development

San Francisco's strategy for Yerba Buena Gardens (YBG) illustrates the alternative path public officials followed to meet their large-scale planning goals. From its designation in the early 1960s as an urban renewal project, redevelopment of the 22-acre, 3-block area was slated for major recreation activities, even as its character changed dramatically over time. Initial plans for a sports arena to complement the site's convention center were scrapped after nearly two decades of political controversy, law suits, and ever-escalating construction costs. In its place the city planned a large commercially oriented park and public open space. The new development program, put forth in the city's Request for Qualifications (RFQ) in 1980, called for a “mix of commercial, entertainment, recreational, residential and cultural uses that will be a major attraction in San Francisco for residents and visitors alike.”

The objective was "to achieve an 'urban garden,' to create something uniquely San Francisco . . . places for people to dine, relax and enjoy the City in a casual atmosphere in a garden setting" (San Francisco Redevelopment Agency 1980, 18).

What the city wanted, according to its economic advisor, was a 1980s version of world's best recreation and entertainment centers: Central Park and Lincoln Center in New York, Faneuil Hall Marketplace in Boston, and Tivoli Gardens in Copenhagen (Keyser 1989). What the city needed to get it was a financial plan capable of yielding enough revenues to cover the costs of constructing the public gardens, then estimated at \$104.5 million.⁴⁸ At the same time, incentives were necessary to attract a private development team willing to take the risks inherent in meeting the city's large-scale development objectives, environmental mitigation requirements, on-site infrastructure needs, and public amenity package.

The city's financial strategy resulted from hardened experience. While the intense controversy surrounding the Yerba Buena project throughout the 1960s and 1970s symbolized widespread citizen opposition to the heavy-handed, command-and-control redevelopment tactics of the era,⁴⁹ it also reflected taxpayers' growing dissatisfaction with rising local property burdens. No minor discontent, the opposition successfully prevented the city from marketing bonds to finance its initial convention center/sports arena plan. Apprehensive that public investment in this project would lead to tax hikes (to cover operating deficits), citizen groups effectively stymied construction of the convention center through numerous law suits until the city devised a new plan for sole-source financing from a dedicated hotel tax approved by voters in a 1976 city referendum. As a consequence, when in late 1980 city officials sat down to negotiate with the private development team selected to develop the commercial portion of YBG, the political imperatives of self-financing drove the terms of its business deal. Revenues from the sale of two office sites and a smaller residential site would cover 70 percent of total project costs for building the cultural buildings and public amenities, estimated at \$109 million by the end of negotiations in 1984. But the density on the site was not enough to support developer payments for all of the public's capital expenses.⁵⁰ The gap might be closed by selling land parcels outside the project area owned by the redevelopment agency that was managing the project, but as the staff-prepared Public Sector Financial Feasibility Report cautioned, the uncertainty of the timing of such sales made this an unreliable source of funding. To fund the residual share of these capital costs, the redevelopment agency would draw upon tax-increment revenues and bonding capability from the larger redevelopment district. The private commercial uses (convention hotel; retail, recreation and entertainment complex; parking), however, would have to carry the full costs of operation and maintenance, including security, for the cultural facilities and open spaces.

Despite the size of this mixed-use project and the sophistication of the city's business deal with the private developers,⁵¹ the project was short of fiscal self-sufficiency. The agency's financial models all indicated that lease revenues from the commercial uses would be "insufficient" in the first few years of operations to cover all of the projected costs, thereby requiring other resources to meet the shortfall. The six years of projected operating deficits, totalling \$4.5 million, or four percent of the total capital budget, was, however, a relatively small sum, which the agency believed could be easily covered by future land sales outside the three central blocks or expanded tax-increment authority (San Francisco Redevelopment Agency 1984, 1-2 of Attachment). If this was the city's sole financial risk, it was a calculated

one that promised a big payoff—the largest downtown park since Union Square was presented to San Francisco in 1850.

The negotiated development of YBG was not out of harmony with the processes and goals of comprehensive city planning. Rather, publicly initiated, large-scale projects afforded planners a means of exercising control over the form of the city by acting on only one section of it.⁵² As such, ambitious public development represented an attempt to exert unified, coordinated decision making over a significant piece of urban space, which through its scale aimed to broadly affect the city landscape. Entrepreneurial public officials saw zoning as inefficient for this purpose, largely because of the lack of coordination across individual initiatives. In turn, precisely because it departed from the incremental pattern of urban growth, public development was risky.

Risk Taking—Public Style

While the rationale to pursue public development arose from the market and fiscal context of the times, public development meant taking new financial and political risks. The public's ownership of land that would be leased to private firms for the development of office towers and retail spaces provided, in a technical sense, legal security to take on those risks. Similarly, the business arrangements of a public-private deal laid out in complex detail the public's control over the development process and specified its financial benefits over time. Still, cities were putting hard dollars into projects, linking their investments to the performance of private commercial development, and trading current values for expectations of future revenues. Given the stringent fiscal conditions facing some big cities, it is fair to ask how government could afford to take on any additional financial risk. The response quipped by many urban observers and public officials in the 1980s would have been, How could they not? That is, given the potential of development returns, how could they not go forward, not take the gamble? "No risk, no reward," in the words of one big-city mayor.⁵³

The allure of, and the need for, public development spoke to both these questions. Finding feasible solutions to the risk problem and defensible positions to present to the public at-large defined the central task of public officials; they became charged with managing and mitigating the risks they needed to take.

How much risk cities needed to take varied with the ambitions of the project, most particularly, with the economic condition of the local land market. If, for example, city officials sought private development of land that was not valuable in market terms, the public had little choice but to assume the substantial financial risk involved in changing the dynamic of current market forces. New York's strategy (initiated in the early 1980s) to encourage development in the boroughs outside Manhattan represents a case in point. In a report (requested by then-Mayor Koch) evaluating the city's stalled efforts to revitalize the outer-borough downtowns, the Regional Plan Association reviewed many of the procedural, bureaucratic, and financial problems holding back these projects. Of telling importance was its identification of conflict between the city's development and financial concerns:

These downtown projects have the type of indirect benefits which the City's cost-benefit analysis specifically ignores, but City assistance is required precisely be-

cause they are inherently riskier. The bet must be that the City-stimulated projects will create the critical development mass needed to alter local market forces and reduce developer's risk perceptions and increase the direct benefits to be gained by future development projects. It seems rather like a Catch 22 argument when the same reasons are cited both for and against the City's involvement in these projects. (Regional Plan Association 1988, 12 and 15)

As a solution the Association recommended that if the city really wanted to revitalize the outer-borough downtowns, then it had to assume more of those financial risks.

The dual nature of the public's risk exposure sets it apart from development risk-taking in the private sector. On the one hand, as a property owner, a public agency wants to be assured of receiving an "adequate" or "sufficient" return on the value of its land or related investment put into a development project. This is the financial imperative of a deal. In the fiscal context of the early 1980s, the imperative was made more intense by looming threats to city budgets. Further, following this imperative meshed with political needs to avoid any suggestions of favored treatment to a selected private developer.

On the other hand, the direct financial return need not be "maximized" or even "competitive" when measured against private-sector standards. Similarly, the risk/reward relationship need not be market driven. As a body politic, a city has the discretion to use its land resources to set broad-based policy aimed at achieving selective planning and social goals. The political imperative of doing just that—exercising discretion in defining the "price" of an opportunity to develop public land—typically leads some elected officials to be "less concerned with hitting a home run than with not striking out" (Koenen 1991).

Some cities have consciously chosen a nonfinancial strategy. Seattle's actions regarding its surplus lands, for example, reflect a clearly defined policy of taking returns in the form of noncash benefits by using those resources for community revitalization, housing, open space, and nonprofit uses. To former Mayor Charles Royer this approach differentiated his city from Los Angeles or New York and their entrepreneurial actions.⁵⁴ Public officials expect to be held accountable for both the process and the results of their public development activities. A crucial test, therefore, becomes the political feasibility of their financial deals with private developers.

With the price of risk taking denoted in political as well as financial terms, proprietary control over land assets gave entrepreneurial public officials important tactical advantages over regulatory actions because opportunities existed to hedge their risk exposure. First, the owner's superior negotiating position strengthened their ability to define how the financial value of the asset would be realized, that is, what combination of revenues, public works, and social goods would be delivered by the development project. Second, total site control gave them the ability to time the release of commercial development rights to the market through sequential RFP-bid offerings or conditional releases built into a master development agreement. Third, the necessary public investment in project infrastructure could be linked to specific standards of private-sector performance. With these tactics exercised individually or in concert, public entrepreneurs aimed to mitigate financial risks of public development in ways that helped them manage the coincident political risks. This was calculated risk taking—public style.

A Step into the Private Economy

Disposing of public property with conditions dates back to eighteenth-century New York when city officers used the sale of waterfront lots to control commercial development.⁵⁵ For the 45 years prior to the American Revolution in what an historian of the period has called "unquestionably the major property-related concern of the officers of the corporation," the city granted commercial access to the waterfront, for which developers paid through the provision of infrastructure improvements. In the aggregate, the policy effectuated construction of needed public streets and wharves.⁵⁶

As reflective of the period's prevailing political economy, the grant policy was less a way of raising revenue than a tool of governance that vitiated the need for revenue: waterlot grants afforded government the opportunity to act without cost to the municipal treasury. At a time when the corporation's governmental powers were tightly circumscribed (there was no self-taxation, for instance), its substantial property holdings (granted by the terms of its charter) generated wealth, discretionary decision making for local officials, and the opportunity to achieve government objectives beyond the reach of unpropertied local governments.

Through the granting policy the city had the ability "to shape, control, and profit from its waterfront without any obligation to finance the process."⁵⁷ This was government by delegation, a form of privatism in which government was committed to a policy of externalizing the costs of growth. By necessity, the "planning" behind the policy would be an incremental process . . .

dependent in every instance on private market forces. Only a merchant who expected to profit quickly and substantially from investment in a waterlot grant could be expected to seek or accept such a deed. (Hartog 1983, 53-54)

Although the city's actions were calculated to stimulate commercial development, in the absence of direct public investment, it could not move ahead of market demand.

In contrast, the 1980s strategy of aggressively exploiting property values through public development represented a direct step into the private economy, one with the potential to ignite the political spark that such activities would be considered, by powerful real estate interests whose business this was, adverse competition. Surprisingly, little opposition surfaced, in no small part because the ways in which public officials carried out the strategy skirted that risk.

For one, projects such as Battery Park City and Yerba Buena Gardens were not speculative public construction ventures of the type exemplified by the gigantic and controversial World Trade Center project undertaken (and still owned) by the Port Authority of New York and New Jersey in the early 1960s.⁵⁸ Though many had visions of profit from development, most cities accepted the reality that they needed the private sector's participation. An assistant commissioner of the New York City Department of Ports and Terminals remarked,

I'm not sure there's a better way to proceed because there are so many developers and entrepreneurs interested in waterfront properties. First of all, we pick the developer. The developer pays the construction costs, the developer is responsible for

public access to the waterfront, the developer and the tenants pay the rent on the lease, and we collect taxes. . . . The costs are just too high for us to do it ourselves. (Sherman 1984)

As long as the public approach was not aggressively competitive with private interests and appealed to the greater efficacy of private investment, enough developers saw in these ventures an opportunity to share the risks of large-scale development with an entrepreneurial and cooperative public partner.⁵⁹

These mutual business interests were most evident in the shared preference for high-profile downtown projects, as opposed to smaller neighborhood projects. For each side, the large-scale, prime-site character of the development opportunity justified the risks of a public-private venture. For developers, the potential existed for gaining above-average investment returns from the quasi-monopoly position likely to result, even temporarily, from such singular, large-scale development. For the public agency, it was the allure of capturing direct financial returns in addition to securing noncash benefits.

Being a public developer put cities at risk, notwithstanding the mode of public-private enterprise, the principle of self-sufficiency in project finance, the strategies for risk mitigation, and the contractual arrangements for capturing a share of private profits generated by public development.⁶⁰ At stake were scarce resources and sought-after revenues, and few or no rules governed who would make decisions over those resources and how those dollars ultimately would be allocated. Also, the precedents for this type of public behavior were few. In the words of one public developer, the job of managing public development was analogous "to navigating through uncharted waters" (Weisbrod 1992).

The process of public land disposition holds abundant seeds of potential controversy. As they steer a project through the complex maze of land use, environmental, financial, and legal procedures involved in large-scale development, public officials contend with many and diverse interests: competing real estate developers; community groups affected directly by the project; state and local public agencies that have oversight or approval responsibilities (or that might want some participation in the project or whose turf the project encroaches upon); civic groups, citizens, and taxpayers at large who, in general, would be protective of design impacts, watchful of budgetary impacts or harbor philosophical objections to the sale of public assets. Further, the media can be counted on to report the latest snafu, with its substantive understanding of a project's complexity coming only through attention and constant briefings on major events. Opposition could (and did) come from any one or all of these potential points of contention. Whether controversy ultimately became life threatening depended, in part, upon how well the public process for implementing a project—selecting a developer, mitigating environmental impacts, reviewing design, bargaining and subsequently accounting for the terms of a public-private deal—was carried out and how well the risks of controversy were managed.

The Tension of Balancing Public Interests

The political complexity of what cities hoped to achieve through their public development activities revealed itself in the tension between the drive for financial returns (revenues and

public works) and the desire for social goods (design amenities, jobs, and affordable housing). Cities wanted a package of public benefits, generally including all of the above. The tension resulted not so much with what was on the agenda, nor even with its explicit recognition of financial gain, but rather from the task of accommodating multiple, and sometimes conflicting, goals with private development of a single site. Land resources, from a planning perspective, are too valuable to sell merely for money consideration as in an auction-bid sale; from a fiduciary perspective, they are too valuable to trade away for short-term gains at the expense of long-term benefit streams, as is the case with one-time asset sales.

In no place has this tension come into relief more sharply than New York City, where the sheer number of significant publicly owned sites brought into development in the 1980s turned government, in the minds of many, into the city's most aggressive real estate developer. Among the sites were some of the largest, most prized parcels in Manhattan: The Coliseum at Columbus Circle, South Ferry Plaza, South Street Seaport, East River Landing, River Walk, Pier A, Battery Park City. The values to be realized from building on these land assemblages for redevelopment, reclaimed waterfront sites, and proposed platform extensions over the water (building sites which followed the city's historic tradition of creating land when it was needed) (Scardino 1987, E7), promised a dream-come-true scenario for local politicians. With its infrastructure in extreme disrepair from long-term policies of deferred maintenance, the list of projects ready to consume the potential windfall seemed inexhaustible. "We have \$55 billion worth of work to do over the next 10 years," said Ed Koch, then in his third term as mayor, "for schools, streets, parks, transportation projects—and only \$45 billion that we can find to do it with" (Scardino 1986, 35). Selling property was a way to fill the gap—painlessly—by raising government revenues without raising taxes.

Columbus Circle: A Policy Primer

The sums potentially available from the city's proprietary interests in real estate were large by real estate standards, and significant even when measured against either the city's enormous capital needs or annual property tax revenues. For example, when the proceeds expected from the largest single public real estate transaction—the sale of the Coliseum site at Columbus Circle—appeared in the city's budget plan for fiscal year 1988, the \$455 million disposition price⁶¹ amounted to nearly two percent of the city's \$23 billion expenditures for the year, and was the equivalent of 8.4 percent of revenues expected from real property taxes (Office of the State Comptroller 1987b). In terms of the capital budget, the deal would cover 21 percent of the ten-year allocation for schools, 11 percent of streets and highways, or 5.5 percent of mass transit projects, for which the Coliseum proceeds had been committed under the terms of the city's 1984 Memorandum of Agreement with the Metropolitan Transit Authority (MTA), parent owner of the parcel.⁶² The fiscal importance of these land sale revenues was not minor, yet what mattered even more was the path taken by the dollars through the budget.

The Coliseum sale monies followed two routes into the city's operating budget. First, the city's share of the transaction, about \$227 million, would go directly into the general operating fund, thereby freeing up funds for additional service enhancements, social welfare services, or other budget priorities. Second, the MTA's share, also \$227 million, would be channeled into the Transit Authority's operating budget over a three-year period and used

to meet the city's obligation (under section 18-b of the State Transportation Law) for matching the amount of transit operating assistance provided by the state. In exchange, the city would provide the MTA with an equivalent amount of capital funds by issuing general obligation bonds. This substitution of borrowed funds for operating expenditures was a tactical and controversial maneuver key to the public sector's financial transaction. Through it the city created transit subsidies which otherwise would have had to come out of the agency's own operating budget. The effect was to produce a budget relief of \$116 million in the first year and an additional \$112 million over the next two years.

Under this scenario city officials expected to realize more money than the \$230 million first anticipated,⁶³ but the \$455 million they subsequently planned on turned out to be legally questionable and fiscally volatile. Repeatedly delayed by law suits over the zoning-for-sale character of the deal and the environmental impacts engendered by its massive scale,⁶⁴ the Coliseum transaction ultimately was dropped from the budget plan five years later, after continuous criticism by the city's fiscal overseers as "short-sighted fiscal management."⁶⁵ By that time, renegotiation of the deal following the trial court's invalidation of the sale (*Municipal Art Society v. City of New York*, Lueck 1987b) had scaled back the anticipated proceeds to \$338 million. (At about the same time, the economic feasibility of the project collapsed upon itself under deteriorating market conditions and withdrawal of the project's lead office tenant and joint venture partner (Lueck 1987a, B1; Lowenstein 1987, 11).)

The timing could not have been worse. Coming as it did during a period of intensifying fiscal distress for the city, the project's suspended status evoked warnings of massive city layoffs, substantial budget shortfalls, and delayed (if not canceled) transit improvements. When these potential impacts surfaced in the media, Koch's posturing and appeals for approval of a modified plan did little to quell the critics opposed to the project, other politicians and civic groups in particular, who charged that he was trying to balance the city's budget by "overdeveloping" Manhattan.⁶⁶

The Coliseum transaction should be seen as a prototype of a budget play, from a policy perspective. To those who had studied the fiscal politics surrounding the city's crisis in the mid-1970s, the budgetary treatment of the deal was disturbingly reminiscent of the earlier period's fiscal gimmickry. Funding current expenditures out of the capital budget—known, in short, as the capitalization of operating expenses—embodied practices that led to that fiscal crisis.⁶⁷ Because of this legacy of fiscal impudence, the Coliseum deal came under a level of scrutiny and accountability generally missing in the city's real estate dealings. What most bothered the state comptroller's office, which repeatedly raised accounting questions about the true, underlying nature of the city's financial obligations, was the way in which the city's budget presentation of the money flows misrepresented the substance of the deal.

Because the City lacked an owner's power to control the disposition of the Coliseum, it was necessary for the City to engage and bargain with—to "induce," as the City's Budget Director put it—other officers and institutions of government to work out an agreement for selling the Coliseum, an agreement that obligated the City to increase its funding for the capital program of the Transit Authority, the TBTA's sister agency. This is the economic substance of the transaction that we believe the accounting should reflect.⁶⁸

The Coliseum case makes clear how ripe for the taking the public's real estate assets were as property markets heated up in the mid-1980s. Just as sharply it reveals the risk of budgetary exposure from large, one-time asset sales. When making decisions over the use of their land resources, city officials must cope with a short-term fiscal reality that can make rational decisions based on a long-term calculus something of a fantasy. Given the fiscal environment many confront today, the opportunity for discretionary budget spending afforded by large one-time sales such as the Coliseum is often irresistible. The twin pressures to avoid additional taxes and maintain services in the face of strapped budgets impose a political imperative to capture value from land resources. Yet, interestingly, high-profile sales of significant sites for one-time, top-dollar cash returns were the exception (driven by budget exigencies) rather than the rule, even in New York City.⁶⁹

The grab for money in the Coliseum disposition was too blatant, and the disregard of public concerns too callous, to survive the political thicket of reviews and civic opposition to such a large-scale, high-profile commercial project. As regulatory policy, the zoning-for-sale economics underlying the disposition price proved to be illegal; the court's reasoning in the case made it clear that the disposition price was flawed by the inclusion of a \$57 million refundable component to be employed for off-site purposes.⁷⁰ "A proper quid pro quo," wrote the judge, "for the grant of the right to increase the bulk of a building may not be the payment of additional cash into the city's coffers for citywide use."⁷¹

The timing of the city's actions further revealed the singularity of its pecuniary motives: incorporating the initial proceeds estimate into the fiscal year 1987 budget before final approval of the sale undoubtedly undermined the city's position, giving the appearance, as one analyst noted, "that the greater density had been granted to balance the City's budget, rather than to promote the public interest (Lassar 1989, 37)." Equally damaging was the city's request for proposals, which stated that the purchase price offered would be "the primary consideration" and that the developer would be required to "apply for and use its best efforts to obtain the maximum twenty percent Subway Bonus."

As land policy, the transaction was skewed from the start because it made no attempt to accommodate the competing demands of the public's interests in land. Despite the budgetary significance of the disposition's large cash infusion and the service enhancements it seemed to promise, the deal made no gesture toward balancing financial interests with social goods. As such, it violated the practical public-purpose tenet that the site was too valuable to sell for the highest price, in disregard of long-term planning and environmental impacts. The auction-bid approach for the disposition, relatively simple and transparent when set beside elaborate and complex negotiated dispositions—as in the case of Yerba Buena Gardens—only exacerbated the transaction's political vulnerability.

The intended disposition of the Coliseum site represents a policy primer on public development. It exemplifies the tension between the regulatory responsibility of a city and its entrepreneurial zeal in disposing of its property. Sharply, and clearly in contrast with New York's Battery Park City, it poses questions about priorities: When cities have a financial stake in a project, does good planning get lost? Does an inherent conflict of interest exist when the public sector wears two hats, developer and regulator? The case raises issues of the accountability of deals struck behind closed doors and of developer selections made without subsequent full disclosure of competing bids. It broaches the subject of one-time re-

turns as opposed to long-term income flows and of limits to recovering the capital locked up in public property. Finally, it exposes the question of what happens when cities make themselves captives to real estate market cycles.

Using land as a capital resource was an entrepreneurial response of public officials ever hungry for new sources of municipal revenue. As in the 1960s, however, the strategy ultimately depended upon market-driven private investment, which shapes the pace and character of what the public sector can achieve. In practice, this meant that policy choices were not always explicit until officials were pressed to make tradeoffs between competing objectives. The quest for financial returns conflicted with the need for social goods because there were limits to what the market, even a strong real estate market, could deliver in the way of public benefits without crippling a large-scale project. What seemed innovative and feasible in concept could (and did) fall victim to its own complexity or, over the extended period of implementation, become entrapped by the cyclical character of real estate development.

The roster of big-city public developments stalled out by 1990, and awaiting the next real estate cycle are notable projects in which both public and private sides had invested large sums over many years for predevelopment work. In New York, these are River Walk, 42nd Street Redevelopment, Renaissance Plaza, South Ferry Plaza; in San Francisco, Yerba Buena Gardens; in Boston, Commonwealth Center, Boston Crossing, One Lincoln Street, and South Station air-rights development. In the case of New York's South Ferry site, the project was meant to "embellish the harbor-front skyway with a new pinnacle, rejuvenate lower Manhattan's ferry terminals and add a substantial cultural dimension to downtown life." More than just another architectural trophy, it was expected to deliver public amenities and generate \$375 million (net present value) for the city (Dunlap 1991, B2; NYC Public Development Corp. 1990).

In the absence of a strong real estate market, public development initiatives lose some, though not much, of their allure. The immediate financial benefits city officials hungered for surely are dreams past; returns are expected only in a distant future, under the most optimistic scenario today. In terms of political economy, what cities have lost on the financial side is the "cushion" that rising land values afforded entrepreneurial officials to be risk takers. Unable to tap that reservoir, city officials now will face tougher, hard-dollar choices over public investments for the infrastructure, design amenities, and other public goods they had secured from public development.

The current real estate downturn is unlikely to seriously diminish the appeal of public development as a strategy for public intervention. (To some city officials, the depressed times make the strategy ever more important.) The turn to entrepreneurial development came from local government's efforts to manage the development process with greater control than that afforded by arm's-length relations or regulatory actions. The effectiveness of this approach has made it a legitimate strategy for stimulating local economic development and implementing complex redevelopment projects. Notwithstanding the diminution of potential financial returns, city governments, public authorities, and other special-purpose agencies have strong political and institutional incentives to continue along this course with developers who now better understand how to play by the new rules.

Notes

1. The revenues backing these bonds come from both commercial and residential leases; but because their dollar size is greater and the corporate guarantee more secure, the commercial leases are the more significant of the two as collateral for the bonds.
2. The move into entrepreneurship also occurred in reaction to the formulas used in urban renewal projects, where cities put all the infrastructure into the ground and accepted a low land price, giving all the up-side to the private purchaser of the land. With the demise of the Title I program and the loss of federal funds to write down projects, cities were forced to view renewal efforts as more of an investment decision, and they looked for ways to capture the increment of value created. See Sagalyn (1990a, 429–41).
3. From U.S. Bureau of the Census (1991). On office space: in the 32 largest metropolitan areas in the U.S. (covering about one-half of the total office building stock), the inventory nearly doubled from 990 million square feet to 1.963 billion from 1980 to the end of 1989 (proprietary data, provided by CB Commercial, Torto-Wheaton Research Division). On shopping centers: proprietary data from International Council of Shopping Centers provided by F.W. Dodge-DRI Construction and Real Estate Information Services. On hotels: Vignola and Krutick (1991).
4. Sources are: Maisel (1989), Byrne and Meyers (1990), Krutick et al. (1988), Frieden and Sagalyn (1989).
5. In 1982, property taxes accounted for 21.5 percent of current revenues, down from the early 1970s (predating the heavy inflows of intergovernmental aid), when dependence upon property taxes was nearly one-third of total general revenues. The 1982 figure represents a reversal of the declining trend, the first time in 20 years that state and local governments' reliance on the property tax grew—the result of declining federal aid. Sources: U.S. Bureau of the Census (1983), Guenther (1983, 21).
6. A comment by the principal consultant to the California Senate's local government committee epitomizes this: "There's no such thing as surplus land anymore." Source: Fulton (1987, 8).
7. For example, see Sherman (1984), Padron (1984).
8. See Brett (1983), Lutin and Bergan (1983), Dramove (1985), Gottlieb (1986), Scardino (1986), Fulton (1987), Dowall (1987), Gammage and Schroder (1989), Stone (1986), Tercyak (1986). On advice, see Basile et al. (1987), Wetmore (1988), Porter (1986), Wetmore (1991), Wetmore and Klinger (1991).

9. Sources: Urban Land Institute Research Division (1979), Witherspoon (1982), ULI/UMTA (1986).
10. For example, Howe (1987), *Wall Street Journal* (1989), Barsky (1989), Dunlap (1990), Dunlap (1990a, b, c), Brass (1991).
11. Sources: Deloitte Haskins & Sells (1988), Uttler (1988), Pederson (1989), Dowall (1989), Jussin (1989).
12. John Kirlin as quoted Fulton (1987, 7).
13. See Kirlin and Kirlin (1982), Fisher (1987).
14. As quoted in Fulton (1987, 6); also see Basile et al. (1987, 9), Babcock (1989, 937).
15. Source: Washington Metropolitan Area Transit Authority (1985, 12). Joint development, as defined by the real estate industry's primary association and research organization, is that development "directly related to the location and operation of public transportation facilities." Usually large-scale projects involving 100,000 to 1 million or more of gross square feet, they are typically "planned and executed in close coordination with the development of the transit stations, including direct connections. . . (Urban Land Institute Research Division 1979, 17-18)". As a strategy for value capture, literature on joint development first appeared in the early 1970s; see note 9 above.
16. WMATA's efforts in this area, the most systematic of all transit operators in the country, began formally in 1969 with specification of "Commercial Tie-Ins," guidelines laying out how WMATA should negotiate with private land owners whose property values would increase through connections with Metro stations. In 1981, the agency put in place the "Station Area Development Program," which superseded the earlier guidelines. See Landis et al. (1992). 16. WMATA was not alone in promoting transit-oriented joint development. Toronto's Transit Commission, Atlanta's Metropolitan Rapid Transit Authority, Miami's Metro-Dade County Transportation Administration, Maryland's Mass Transit Administration, San Francisco's Bay Area Transit System, and Southern California's Rapid Transit District also pioneered in this area. See Padron (1984).
17. The economic logic linking transit investment with real estate development prompted the first public-private efforts in the early decades of the century with projects such as New York's Grand Central Station and Rockefeller Center. In the 1950s, joint development was introduced by federal policy makers as a way to help finance federal highway projects and to recoup economic returns from federal airport investments. Its emergence in the 1970s came about through local initiatives and captured the attention of planners and developers. Reports on the earliest efforts were published by the Urban Land Institute Research Division (1979), a collection of case studies on joint development projects.

The potential for expansion of joint development projects was triggered by a 1978 amendment to the Urban Mass Transportation Act (the \$200 million UMTA Urban Initiatives Program), which allowed UMTA discretionary grant funding for transit-linked urban development projects. Still these projects were slow in taking off until the early 1980s, after administrators resolved a thorny benefit problem: Who—the federal government and/or

the local transit operator—would receive the financial benefit of the lease or sale of air rights acquired with federal grant monies? See Verchinski (1986).

18. Sources: Urban Land Institute Research Division (1979, 68), Washington Metropolitan Area Transit Authority (1978). In terms of financial payoffs, expectations of what the joint development strategy could deliver have been greater than what, in fact, was delivered. The economic logic of joint development, however, has been a significant force stimulating change in government handling of real estate assets. The inventory report by Landis et al. (1992, 18–28) analyzes the three types of cash revenues generated by joint development: capital contributions, yearly income, and assessment revenues and fees. Based on analysis of 28 joint development projects across the country, the authors found that neither capital nor annual payments generated very much income to local transit operators. Except in New York City (where the emphasis of the MTA's joint development activities has been on station rehabilitation), capital contributions have generally amounted to less than 1 percent of yearly capital expenditures, and annual lease payments account for an even smaller share of annual operating costs.

19. Other techniques include station cost sharing, connector fees, lease of advertising space and concession rights, and special transit tax districts.

20. The move to capture new sources of operating income from existing transit facilities did not go unnoticed by local editorial writers. When, for example, the Massachusetts Bay Transportation Authority (MBTA) implemented its first "adopt-a-station" program in 1987 with a 35-year lease to a consortium of developers headed by the "well-established" Boston-based Beacon Companies for the mixed-use redevelopment of the city's main railroad gateway, South Station, *The Boston Globe* called it the opening of a "promising frontier. . . ."

The prospect of continuing income for the region's transportation authorities [coming] directly from the economic development spawned by its new facilities represents progress. . . . With the South-Station initiative [believed to be the largest in the country at that time], the MBTA has a chance to recoup directly some of the investments, made in confidence that they would ultimately justify themselves economically. (Howe 1987)

In its agreement with the developers, the MBTA retained full veto rights over the proposed 182,000-square foot private development project, then set at a cost of \$30 million. In addition to annual rent of \$550,000, the Authority would split net profits from the project with the developers (Howe 1987).

21. Data drawn from research for Sagalyn (1989, 7–15 at notes 9 and 10). This figure comports with the Boston Redevelopment Authority (BRA) evaluation of trends in the economic value of Class A office buildings. Based on an historic analysis of rents, vacancies, and expenses (after consideration of financial and fiscal factors), the BRA value index for existing office buildings indicated an inflation-adjusted increase of nearly 14 percent for the 1977–82 period. Avault and Fitzpatrick (1986, Table III).

22. Source: Boston Redevelopment Authority (1983). In addition to these four garages, two others (One Lincoln Street and the High Street Ramp) offered later (and under different arrangements) were part of the garage disposition initiative.

23. From the City of Boston Budget Office, data prepared by the Boston Municipal Research Bureau for the author, April 1992. The earlier estimate is cited in Bradbury and Yinger (1984, 22).
24. See Boston Redevelopment Authority (1985), Boston Redevelopment Authority (1988a, b), McClure (1988), Diesenhouse (1989).
25. See Doig (1975), Organisation for Economic Co- Operation and Development (1979).
26. See Frieden and Sagalyn (1989).
27. Robert Ryan as quoted in *The Boston Globe* 1984). For an in-depth profile of the fiscal shock Boston faced in the 1980s, see Bradbury and Yinger (1984).
28. The combined negative impacts of Proposition 2 1/2, the court-mandated repayment of property tax overcharges (mostly on business property and estimated to be between \$75 million and \$154 million, they were known as Tregor payments after the lead plaintiff), and the federal aid cuts made it nearly impossible for the city to go to the credit markets and borrow for capital spending (Bradbury and Yinger 1984).
29. See Sagalyn (1990a).
30. On this point I am indebted to Gary Hack, who reviewed an earlier draft of this essay. Also, see Bennett and DiLorenzo (1982).
31. EDA appropriations stopped in 1986 and those for UDAG, in 1988. See Mead (1986, 49) for data on constant-dollar federal funding cuts. On UDAG, see Embry (1988).
32. For a state-oriented view of these changes, see Tannenwald (1989), Nathan and Doolittle and Associates (1983).
33. The most common off-budget techniques in use were tax-exempt revenue bonding, tax abatements, below- market rate loan terms, loan guarantees, in-kind payments, and donations of land or unused real property to developers. For a survey on economic development practices which provides documentation of the use of these off-budget mechanisms, see Bowman (1987); as general government practice, see Meltzer (1971), Herman (1986).
34. A survey in the late 1980s by the Government Finance Officers Association reported the hidden nature of tax abatements: of those returning the survey, 37 of the 45 states and 12 of the 14 largest cities said they kept no records whatever on tax abatements (Government Financial Review 1988, 3 as cited in Krumholz (1991, 294).
35. Source: Mollenkopf (1983, 140). New York City's heavy dependence upon tax expenditures had not changed by 1991; direct spending for economic development in that fiscal year's operating budget was \$34 million and \$40 million in the capital budget, compared with \$486 million through real estate tax incentives (Mayor's Management Advisory Task Force 1992).

A special report on St Paul's economic development financing practices reveals, to an ever greater extent, the same reliance on indirect investments versus direct expenditures. For every year between 1975 and 1984, indirect investments as a percentage of total program

funds increased, from 94.9 percent to 98.6 percent. Unlike New York's indirect spending, St. Paul relied heavily on revenue bond funding (The Citizens Commission on Bonding and Financing Practices 1986, 25).

36. New York, in particular, faced a problem because its state constitution limited the use of general- obligation capital funds for any project unless it was publicly owned. The prohibition against loans (and, in general, sharing of losses) meant that "only municipal loans using nontax dollars and money that is not borrowed are authorized." Practically speaking, in the 1980s, this meant the use of only federal UDAG and CDBG funds; it also meant that the city shared the downside risk through tax abatements and its negotiated payments in lieu of taxes (PILOTs). See Gold (1987) for an interesting discussion of the history of constitutional limitations on public lending and related public- purpose issues.

37. Sources: Bowman (1987, 3–12), Craig and Reznick (1983, 24–25). Author's analysis of public financing for a sample of 40 major downtown projects reported in Sagalyn (1990a).

38. On development fees, see Synder and Stegman (1986); also see note 39. On real estate transfer taxes, see Guenther (1983), Price Waterhouse (1988), Benjamin (1991).

Similar taxes on development were instituted in San Francisco and Boston in the form of "linkage" exactions imposed on new office development to support off-site housing and economic development needs. A big literature on this type of regulation for financial gain exists. See, for example, Diamond (1983), Pickman and Roberts (1986), Keating (1986), Babcock (1987).

39. See, in particular, the papers in Alterman (1988), JAPA (1988), Altshuler et al. (1991).

40. See, for example, Eimicke (1992).

41. A cultural district, as the term is used here, refers to "a formally defined area with public policies specifically established to encourage the preservation or further development of a special and desirable cultural character." See Berry (1988).

42. See Berry (1988, 123–125). Before they succumbed totally to the collapse of the market, the city and the private developers of two major projects slated for the District still hoped that those projects might go forward, albeit on a smaller scale. See Diesenhouse (1990).

43. As one well-seasoned observer commented about Manhattan:

If market trends and the will of developers are dominant there, then every opportunity for construction on the desirable East Side will be exploited. If the City's policy favoring the West Side is effective, then office development will become more balanced between east and west—protecting the existing character of the East Side, while contributing to the needed upgrading of the West Side. But the City's own estimates show that even if its policy is "very effective," 60 percent of Midtown's office construction will continue to be east of the Avenue of the Americas. (Ponte 1985, 23)

The city zoning changes for midtown Manhattan, first put forth in July 1980 and formally adopted January 1982, were developed alongside "special incentives" and "turn-around" ef-

forts involving heavy affirmative public action in projects such as 42nd Street Development and Portman/Marriott Hotel. See City Planning Commission (1981).

44. Source: Babcock (1977, 10). Babcock's critical assessment of zoning in commercial downtown districts is especially incisive and insightful; see Weaver and Babcock (1979, chapter 5).

45. The often-cited example of imbalanced cost and benefit comes from a 1988 report of the New York State Comptroller's office covering 15 special-permit projects in New York City. Amenities associated with these Manhattan projects, all approved during the 1980s, cost about \$5 million, while the market value of the floor area bonuses given the developers under these permits was an estimated \$108 million (Office of the State Comptroller 1988b.) Also, see Office of the State Comptroller (1988a), and Sviridoff Commission (1984).

46. See Kirlin and Kirlin (1985), Cowart (1988).

47. For a general discussion of this point, see Dalton (1989).

48. Letter to author from Lisa Flaster, May 26, 1992 based on Benson and Flaster (1991).

49. See Hartman (1974).

50. Developer payments for the sale of two office sites (1.2 million square feet of space) and two residential sites (340–540 units) were expected to cover 62 percent of the projected \$109 million total public development cost. Lease revenues, other payments, and interest income were expected to cover another 8 percent, leaving a 30 percent gap to be closed with tax-increment funds and bonds to be issued.

51. In addition to cash proceeds from the sale of the office parcels, the city would receive of a share of operating profits from the privately owned office, hotel, and retail uses.

52. For earlier examples like Rockefeller Center, see Tafuri (1983).

53. Remarks by William Hudnut (mayor of Indianapolis, 1976–1991), on public-private partnerships at "National, Regional and Local Development in Multi- Parties Democracies," International OECD Conference organized with Project Liberty, Kennedy School of Government, Harvard University, Paris, July 1991.

54. Source: Royer (1992). In 1988, Seattle initiated a survey of its surplus lands. "The driver," Royer noted, was the desire to find open space for housing, parks, nonprofits. The value-driven mandate came from citizens:

Surplus property is being viewed as a "cost-free" way to support social services or respond to the demands of community groups. In fact, the City's opportunity costs may be considerable, but this analysis is seldom part of the decision-making process. . . . Citizens pose an obstacle to treating City property as a financial asset because they tend to view all City-owned property as trust property regardless of actual legal or financial consequences. (Depew 1991).

55. This section draws upon Hartog (1983, chapter 4).

56. Not unlike the complicated terms of today's public development lease agreements, the

actual cost of an eighteenth-century waterlot was, according to Hartog, "hidden in a long, complicated, and highly formalized series of provisions that made up the bulk of the [waterlot] grant document." Grantees accepted, along with their lots and potential profits, "a set of restrictive covenants that ran with the land and determined the precise ways in which the real estate could be developed." Satisfying the terms of the covenants was the major consideration paid by grantees, but additional responsibilities specific to the lot were usually added. See Hartog (1983, 50–51) for a discussion of the size and complexity of the public works required.

57. The city was at risk politically if a development venture failed, and financially, if the project had to be shored up (perhaps literally) by the city when only half-completed.

58. See Cohen (1990), Stein (1980).

59. Acceptance of the new behavior was not always immediate. The shift from a traditional auction-bid procedure to a negotiated-development process for dispositions of publicly owned land often followed a "learning curve." This was especially apparent in New York City, where the first commercial parcel offering for Battery Park City under the revised 1979 development plan caused some consternation among the city's largest developers after the Canadian firm of Olympia and York was selected (in November 1980) to be master developer for the six-million-square-foot World Finance Center. Procedures for the public-private development were perceived as unclear and complex. Three years later, these complexities had been reworked into: (1) systematic procedures for selecting developers based on financial and design criteria, (2) specifications of condemnation and foreclosure rights under the leasehold condominium form of ownership for the residential parcels, and (3) defined cost formulas for maintaining public spaces, and financing of the arts program. Confidence and acceptance of the public's new RFP procedures (aided by a strong real estate market) showed up in the increased number of submissions for the authority's 1985 offering for Battery Place. See Horsley (1980), Oser (1984), Oser (1985).

60. See Sagalyn (1990b).

61. In exchange for which the developer would be allowed to build a 2.7 million-square foot project. The size of the project, 20 percent denser than the as-of-right regulation allowed, was the result of bonus provisions flowing from the developer's contribution for subway improvements; the improvements' original cost estimate of \$20–\$25 million had grown to \$35–\$40 million by 1986. See Kayden (1990, 102–103).

62. Sources: Office of the State Comptroller (1989, table 1), Citizens Budget Commission (1988, table 1). For mass transit percentage, Citizens Budget Commission (1986, table 3).

Under the terms of the 1984 MTA-city agreement detailing plans for the disposition of sale proceeds, the gain was to be split, half for the city, half for the Triborough Bridge and Tunnel Authority (a constituent agency of the MTA and actual owner of the site). The full amount, however, was to be "used for the purpose of improving public transportation facilities within the City" by augmenting transit capital expenditures (Office of the State Comptroller 1987a, 3). The details of the transaction presented in the following paragraph are drawn from this same source.

63. As first reported in the plan for fiscal year 1987 (Office of the State Comptroller 1985, 16).
64. See Huxtable (1986), Taylor (1987), Gill (1987).
65. As part of its ongoing review of the city's financial plan, the State Comptroller's Office of the Special Deputy Comptroller for the City of New York singled out the Coliseum transaction for comment, immediately after the development team was designated, in 1985. As litigation increased and the delays continued, the office's commentary took on an increasingly critical tone, beginning in the first quarter of 1989. See Office of the State Comptroller (1985), and quarterly reports no. 34-87, 25-89, 9-90, 15-90, 18-90, 26-90, 8-91, 20-91, as well as the special report on the deal (Office of the State Comptroller (1987a). Also see New York State Financial Control Board (1990).
66. Source: Lubasch (1989). Also see Finder (1987), Purnick (1987), Yarrow (1990).
67. As noted the Deputy State Comptroller for New York City, the Coliseum transaction "did not constitute capitalized operating expenses in the strict sense because the bond proceeds would in fact be used for capital purposes." Yet it was a dubious distinction: "When the issuance of bonds is a precondition to making funds available for use in the operating budget, it takes on the appearance of capitalizing operating expenses" (Bachrach 1987, 2).
68. In 1953-54, the city conveyed the parcel to the TBTA for \$2,182,230, but, because it was part of a former urban renewal area, the city retained an interest, attenuated as it was (Office of the State Comptroller 1987a, 7). Also, Bachrach (1987).
69. For the nine largest commercial projects on city-owned lands in Manhattan during 1980s, all were to be developed under lease arrangements. Four—River Walk, Pier A, East River, Circle Line Project—involved sites with acreage that was either all or part under water, lands which under the public trust doctrine would be leased by a matter of statute. The other five—South Street Seaport, South Ferry Plaza, Hudson River Center, Harlem on the Hudson, and Bridgemarket—were lease dispositions by choice. Forty-second Street Development, the city's major mid-town project, involved privately owned lands which the city and its public partner in the project, the New York State Urban Development Corporation, would acquire through condemnation proceedings and, afterward, would lease. For an analysis of this policy preference, see Sagalyn (1993).
70. Under the terms of the agreement, Boston Properties would be allowed to cut its payment to the city should the regulatory approval needed for the 448,500-square foot subway bonus be withheld. To the judge, this indicated that "the city [was] obtaining not only \$25 to \$40 million of local subway improvements, but an additional \$57 million in cash to be employed for other purposes" (Kayden 1990, 104).
71. For an insightful discussion of why the judge made the right ruling for the wrong reason, see Kayden (1990, 104-109).

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EXHIBIT 1

SELECTED BIG-CITY PUBLIC DEVELOPMENT INITIATIVES 1980-1992 Private Development on Publicly Owned Sites By Type of Landowning Agent

Project	Location
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I. MASS TRANSIT OPERATORS	
Van Ness-UDC Station	Washington, D.C.
McPherson Square Station	Washington, D.C.
Columbia Square	Washington, D.C.
The Far East Trade Center	Washington, D.C.
Chevy Chase Metro Building	Montgomery County, MD
Methesda Metro Center	Montgomery County, MD
Ballston Metro Center	Arlington County, VA.
Tower City	Cleveland
Datran Center	Miami
South Station (Head House)	Boston
Alweiff Garage	Cambridge
One Brattle Square	Cambridge
IBM Tower	Atlanta
Southern Bell Tower	Atlanta
Georgia State Buildings	Atlanta
The Coliseum at Columbus Circle	Manhattan
II. WATERFRONT/PORT AUTHORITIES	
Seaport Village	San Diego
International Trade Center	Seattle
Jack London	Oakland
Brooklyn Piers 1-5	Brooklyn
Hunters Point	Queens

EXHIBIT 1 (continued)

SELECTED BIG-CITY PUBLIC DEVELOPMENT INITIATIVES 1980-1992
Private Development on Publicly Owned Sites
By Type of Landowning Agent

Project	Location
III. SPECIALLY CHARTERED PROJECT-SPECIFIC AUTHORITIES	
Battery Park City	Manhattan
Roosevelt Island	Manhattan
Pennsylvania Avenue:	
National Place	Washington, D.C.
Willard Hotel	Washington, D.C.
Gallery Row	Washington, D.C.
Market Square*	Washington, D.C.
The Landsburg*	Washington, D.C.
IV. PUBLIC DEVELOPMENT CORPORATIONS, REDEVELOPMENT AUTHORITIES, CITY AGENCIES	
California Plaza	Los Angeles
Library Towers	Los Angeles
Yerba Buena Gardens	San Francisco
Rowes Wharf	Boston
Marketplace Center	Boston
75 State Street	Boston
New England Life *	Boston
International Place *	Boston
Government Center Garage *	Boston
South Ferry Plaza	Manhattan
South Street Seaport	Manhattan
Audubon Research Park	Manhattan
MetroTech Center	Brooklyn
Atlantic Terminal	Brooklyn
Livingston Plaza	Brooklyn
One Pierrepont Plaza	Brooklyn

EXHIBIT 1 (continued)

SELECTED BIG-CITY PUBLIC DEVELOPMENT INITIATIVES 1980-1992
Private Development on Publicly Owned Sites
By Type of Landowning Agent

Project	Location
V. TURNPIKE AUTHORITIES	
Copley Place	Boston
Riverfront R&D Park	Boston
Wang Laboratories	Boston
VI. SURPLUS LAND AGENTS	
Military:	
Charlestown Navy Yard	Boston
Brooklyn Navy Yard	Brooklyn
Brooklyn Army Terminal	Brooklyn
Navy Depot	San Diego
U.S. Postal Service:	
Rincon Center	San Francisco
Polk Gultch Station	San Francisco
450 Lexington Avenue	Manhattan
Lincoln Square*	Manhattan
Postal Square	Washington, D.C
New Orleans Center	New Orleans
Retail/Office Complex	Honolulu

Notes:

* fee interest sold

EXHIBIT 2

FINANCIAL CURRENCIES FROM USING LAND AS A CAPITAL RESOURCE

Direct Sources of Cash Revenue	Indirect Mechanisms of Public Funding
1. One-time sale proceeds	1. Value contributions for public improvements built by private firms:
2. Annual ground-rent payments	a. infrastructure
3. Profit-sharing revenues	b. design amenities
4. Transaction fees from project sale or refinancing	c. public facilities
	2. Value conversions or subsidies applied to public priorities:
	a. affordable housing
	b. affirmative-action hiring